

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4910 of 1985

Date of decision: 1-8-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAMI JAYUANTILAL RAMANLAL

Versus

GENERAL MANAGER  
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Appearance:

MR RN SHAH for Petitioner

MR A. Y.Kogje for Respondent No. 1, 2, 3, 4  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/08/97

ORAL JUDGEMENT

Challenge is made by the petitioner to the order of the respondents dated 6th March, 1985 whereunder the services of the petitioner were discontinued. The petitioner was working as Badli Sipoy (sub-staff) in the respondent Bank. His services were discontinued on the ground that he appeared in the written test for empanelment, but he was declared unsuccessful. Under the aforesaid order services of another person similarly situated, namely, V. S. Patel have also been discontinued. That person had come up before this Court and filed special civil application No.3416/85 which has been decided by this Court on 20th June,1985. The aforesaid order to the extent it related to the said person was withdrawn. So that person was taken in service.

2. The only submission made by Shri R. N. Shah, learned counsel for the petitioner, is that the orders of discontinuance of the service of the petitioner and said V. S. Patel were identical, but in the case of Rami the order of discontinuance has been withdrawn, but the same treatment was not given to the petitioner. Both the petitioner and said Rami were badli sipoys who were declared unsuccessful in selection. Hostile discrimination has been made in the case of the petitioner. On the other hand Mr. A. Y. Kogji, learned counsel for the respondents submitted that the case of the petitioner and that of said Rami are distinguishable and as such no discrimination has been made in the case of the petitioner.

3. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties. The policy of the respondent Bank is to empanel badli sipoys who are qualified in accordance with the mutually agreed understanding between the Bank and the Federation of the Bank of India Staff Union. In consultation with the concerned staff union it has been decided that in order to arrive at the eligibility standard 40 marks are required for written test, and consideration shall also be made of the number of days' service put in by the candidate as badli sipoy or the badli sub staff. It has been decided that for every 10 days of full time employment as badli sipoy or sub staff the candidate concerned would be given one additional mark subject to a

maximum of 30 marks. There is no dispute that the petitioner had put in 90 days as full time badli sipoy as on 16th January, 1984 the date on which notice was issued for holding written examination on 26th February, 1984. Passing marks in the examination was 40. The petiitoner secured 7 marks in the written test. After adding 9 marks calculated on the basis of the aforesaid formula, he got 16 marks, much less than the passing standard of 40 marks. Shri V. S. Patel, who had filed special civil application No.3416 of 1985 had obtained 38 marks in the written test. He had put in 317 days as full time badli sipoy and 25 days as part time badli sipoy. For 317 days, he was entitled to maximum 30 additional marks on the basis of 1 mark for 10 days, and accordingly he was given additional 30 marks and as a result of this total marks obtained by Mr. Patel came to 68. So Mr. Patel was empaneled in the panel of Badali sepoy. Learned counsel for the petitioner has not controverted the fact that marks are to be awarded in the written test in accordance with the mutually agreed understanding made by the Bank with the Federation of Bank of India Staff Union. That criterion of giving marks in the written test is also not open to challenge by the petitioner. So it is a case where the petitioner has not even got qualifying marks in the written test and he could not be empaneled. None of the legal or fundamental right of the petitioner is infringed in the present case. No interference by this court with the impugned order is called for. The petition is dismissed. Rule discharged. No order as to costs.

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